IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO.587 OF 2003

Mr.B.Janardhan S/o.Chandraiah,)
Prisoner No.CT 1120,)
Central Prison, Cherlapalli,)
Ranga Reddi, Andhra Pradesh.).. Petitioner

Vs.

1. The State of Maharashtra,)
through Secretary,)
Home Department, Mantralaya,)
Mumbai - 400 032.)

2. State of Andhra Pradesh,)
through it's Secretary,)
Hyderabad, Andhra Pradesh.)

3. Inspector General of Prisons,)
Hyderabad, Andhra Pradesh.)

4. The Superintendent,)
Central Prison, Cheralapalli,)
Dist.- Ranga Reddy,)
Andhra Pradesh.).. Respondents

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Shri Madhav Jamdar for the petitioner.

Shri B.H.Mehta, APP for the respondents.

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CORAM : R.M.S.KHANDEPARKAR &
P.V.KAKADE, JJ.

DATED : 23rd March, 2005.

ORAL JUDGMENT: (Per R.M.S.Khandeparkar, J)

1. Heard. Perused the records. Though the petition has been filed challenging the denial of remission to the petitioner as well as quashing of the

order dated 5th June, 2000 passed by the Home Department, Mantralaya, Mumbai, in exercise of powers under Section 432(4) of the Code of Criminal Procedure, 1973, remitting the portion of the sentence of imprisonment of life which is only in excess of 30 years, the learned Advocate for the petitioner has restricted his challenge only to the order dated 5th June, 2000 without pressing for any other relief.

2. The only point which arises for our consideration in the matter is as to whether the respondents are justified in remitting the portion of the sentence of imprisonment of life over and above thirty years, instead of remitting the same over and above 24 years in terms of the guidelines dated 16th November, 1978.

3. There is no dispute that the case of the petitioner is governed by the guidelines dated 16th November, 1978 formulated by the respondents in relation to the life convicts. In terms of clause 8 of the said guidelines, the persons guilty of offences not involving murder, who are sentenced to life imprisonment, their period of total imprisonment including the remission shall be of 24 years. Yet, under the order dated 5th June, 2000, the respondents

have held that in relation to the petitioner, the total imprisonment shall be for 30 years and not 24 years. The explanation sought to be given in the affidavit in reply filed by the respondents in that regard discloses that the Sessions Judge had imposed maximum sentence for life in view of the fact that the petitioner was found guilty of having committed rape on the minor girl of five years of age.

4. Once the guidelines are framed by the respondents in relation to the life convicts other than on charge of murder, their imprisonment can extend maximum to the 24 years. Merely because the accused was sentenced for life imprisonment on the ground that he had committed rape on the minor girl cannot be a justification to extend the period of imprisonment in relation to the petitioner to the extent of 30 years. There being no cogent and relevant materials disclosed for discrimination in the matter of the petitioner and to extend his imprisonment to 30 years in contravention of the guidelines laid down for fixation of total number of imprisonment for life convicts other than those who have committed murder, certainly the impugned order fixing the period to the extent of 30 years of imprisonment cannot be sustained and is liable to be

quashed and set aside. Undoubtedly, therefore, the respondents will have to pass a fresh order after taking into consideration all the materials relevant for consideration including the said guidelines.

5. For the reasons stated above, therefore, the petition succeeds. The impugned order dated 5th June, 2000 is hereby quashed and set aside and the respondents are directed to pass fresh order in accordance with the provisions of law and bearing in mind the guidelines dated 16th November, 1978. Rule is made absolute accordingly with no order as to costs.

(R.M.S.Khandeparkar, J)

(P.V.Kakade, J)